



General Assembly

Substitute Bill No. 5117

February Session, 2010

* ____HB05117JUD__041310__ *

**AN ACT CONCERNING CONSERVATION AND PRESERVATION
RESTRICTIONS HELD BY THE STATE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 47-42d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) For purposes of this section, "state or local land use agency"
4 includes, but is not limited to, a municipal planning commission,
5 municipal zoning commission, combined municipal planning and
6 zoning commission, a municipal zoning board of appeals, municipal
7 inland wetlands and watercourses agency, a municipal historic district
8 commission and any state agency that issues permits for the
9 construction or improvement of real property.

10 (b) No person shall file a permit application with a state or local
11 land use agency or a local building official or director of health, other
12 than for interior work in an existing building or for exterior work that
13 does not expand or alter the footprint of an existing building, relating
14 only to property that is subject to a conservation restriction or a
15 preservation restriction unless the applicant provides proof that the
16 applicant has provided written notice of such application, by certified
17 mail, return receipt requested, to the party holding such restriction,
18 including, but not limited to, any state agency that holds such
19 restriction, not later than sixty days prior to the filing of the permit

20 application. In lieu of such notice, the applicant may submit a letter
21 from the holder of such restriction or from the holder's authorized
22 agent, verifying that the application is in compliance with the terms of
23 the restriction. If the applicant has provided written notice pursuant to
24 this subsection, the holder of the restriction may provide proof to the
25 state or local land use agency or local building official or director of
26 health that granting of the permit application will violate the terms of
27 the restriction and such agency, official or director shall not grant the
28 permit.

29 (c) If the applicant fails to comply with the provisions of subsection
30 (b) of this section, (1) the party holding the conservation or
31 preservation restriction, other than a state agency that holds such
32 restriction, may, not later than fifteen days after receipt of actual notice
33 of permit approval, file an appeal with the state or local land use
34 agency or local building official or director of health, subject to any
35 rules of such agency, official or director relating to appeals. The
36 agency, official or director shall reverse the permit approval upon a
37 finding that the requested land use violates the terms of such
38 restriction; or (2) the state agency that holds such restriction may, not
39 later than thirty days after receipt of actual notice of permit approval,
40 file an appeal with the state or local land use agency or local building
41 official or director of health, subject to any rules of such state or local
42 land use agency, official or director relating to appeals. Such state or
43 local land use agency, official or director shall immediately reverse
44 such permit approval if the commissioner of the state agency that
45 holds such restriction certifies that the land use authorized in such
46 permit violates the terms of such conservation or preservation
47 restriction. The commissioner of the state agency that holds such
48 restriction may impose a civil penalty of not more than: (A) Five
49 thousand dollars for a violation of subsection (b) of this section; and
50 (B) one thousand dollars for each day that such violation continues
51 after the applicant receives an order from such commissioner assessing
52 a civil penalty pursuant to subparagraph (A) of this subsection.

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| This act shall take effect as follows and shall amend the following sections: |
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| Section 1 | <i>October 1, 2010</i> | 47-42d |
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ENV *Joint Favorable Subst.*

PD *Joint Favorable*

JUD *Joint Favorable*